

NATIONAL WORK PLAN: ACHIEVING DECENT WORK IN ALBANIA

This document outlines the main areas that CSOs in Albania should intervene in order to achieve decent work.

Draft of National Work Plan of Decent Work in Albania

Background

The draft of national work plan has been prepared in response to the discussion with trade unions, NGOs and think tanks participating at the national training organized in Albania on 7 July 2011. During the discussions, the participants have identified the national priorities for improving the decent work situation in Albania. Despite this event, Agenda Institute has conducted a deep research on very materials related with decent work in Albania in order to discover its main problems. In order to select the main areas for this work plan, Agenda Institute had made also different separate consultations with both the two trade unions and NGOs in Albania.

This work plan has been developed to ensure greater improvement in the fulfillment of decent work agenda and to stimulate the implementation of EU social acquis in Albania. This draft plan identifies the areas which should be tackled in order to achieve our goal and it outlines the main steps to activate our priorities.

The draft of national work plan

1. The development of collective bargaining in private sector

The collective agreements are very important document for labour relation; however in Albania these agreements function mainly in big companies when they are registered at the National Registration Centre and Tax Bodies. In this context, the unions report that effective collective bargaining remained difficult, and agreements were hard to enforce.

In addition, it is important to decrease the minimum number of workers needed to create a union-based organization. This would increase the employees' representation in small companies.

The unions should continue to support the unification of collective agreements at the national level based on sector which will guarantee comparable working conditions and remuneration for comparable work. This will lead to a higher recognition of important role and increase the legitimacy from various employee's and employers' organisations, and potentially result in the development of industrial relations in Albania.

2. The development of social dialogue

A social dialogue in Albania does not function especially at the enterprise level.

In order to improve the situation, it is important that the subscription payment to the employee organization should no longer be organised only via the employer and the trade unions should provide

access to workers at all their organisational levels in order to increase the internal level of democracy within the unions .Further this will help to improve the public opinion perception.

In addition, the focus of social dialogue and collective bargaining should not only be on remuneration but also on working time reduction and on improvements of working conditions.

The tripartite social dialogue in Albania is based on the National Labour Council. From the information gathered, the council violates its own regulation and the rules of partnerships and the issues discussed in this council are formal and not real. In order to produce changes and to improve the situation, we proposed to confer the power of veto to the two trade union confederations in order to prevent that decisions directly affecting workers' rights are taken without the possibility to interfere.

3. Legislative Improvements

I. Bylaws

It is required that the council of ministers issues soon the bylaws in order to regulate the implementation of laws in Albania.

II. Amendment of Labour Code

The revision of the Labour Code was approved in order to approximate it with the EU legislation. This revision was undertaken in collaboration with the ILO experts. The unions had prepared different proposals for changing the Labour Code. However, comparing the proposals of both the trade unions with the final draft for amending the Albanian Labour Code, it is observed that there are still many articles which need to be revised in according to the unions' proposals to improve and to bring closer the Albanian legislation with International standards and EU social acquis.

A. Prohibit antiunion discrimination by law

Independent Trade Union of Textile, Garment, and Leather Workers reported that employers in the textile, garment, leather, and footwear sectors engaged in antiunion behavior. Employers threatened international relocation if workers unionized. In order to improve the situation, we recommended that it should be prohibit antiunion discrimination by law.

B. Rights to strike

The right to strike is restricted at civil servants, regardless of their function, they are not allowed to strike. The list of "essential services" where strikes are banned exceeds the ILO definition by including workers in the prison service. Also, if a strike is considered unlawful, the employer can order strikers to return to work within three days or face dismissal. We recommended that changes in these perspectives are important in order to bring closer the Albanian legislation with international standards.

C. Improve the protection of worker

The government should improve the system to prevent unfair dismissals. For this reason, we agree with the unions that the burden of prove should not lies on the victim but it should be stipulated as a responsibility of the employer.

In addition, it is required to amend the labour code as the reinstatement can only be ordered for public administration employees and not in private sector. It is required that the reinstatement should be added also for the private sector.

Moreover, Articles 141 and 143 should include a provision that despite the respect of the required period for firing somebody, the employer has to provide a justified explanation.

These three changes will help to provide more effective protection of workers' rights.

4. Setting up Adequate Institutions

I. Labour Court

Albanian trade unions report that civil courts are overloaded and it may take around three years to review cases of anti-union harassment. In addition, the civil courts lack the competence to deal effectively with labour disputes. This is why the unions have continuously demand the creation of the labour court. It is crucial that the government starts to establish the Labour courts as described by the Albanian Labour Code from 2003 and to ensure the efficient function of special arbitration tribunals so that they deal effectively with trade union rights violations.

II. Labour Inspectorate

It is recommended the strengthen of state inspectorate authorities by the formation of satisfactory conditions at work; increase their cooperation with other inspector authorities, provision of rights trainings, creation of effective management and organizational structure.

In addition, this inspectorate is facing with constant information leakage. In the case of fason industry, the factories' owners are informed before their arrival to their factories. It needs new strategy to improve the situation.

In addition, to make fully function the state inspectorate, it is required the establishment of the 24 local offices as there is still only one single local office established in Saranda.

III. Social and Economic Council

The formation of the "Social and Economic Council", as independent consultative body and as a forum to promote the participation of the civil society in the economic and social life is very important for the development of civil dialogue.

IV. Publication Center

It is very crucial to increase of the cooperation of the National Publication Center with the trade unions. This cooperation will provide real information to unions about company's financial situation such as the yearly profits gained the economic situation etc. In Albania, the companies operate with two or three difference normaly .this will help the unions to

5. Increase cooperation between actors

A major deficit which influences the decent work agenda is the lack of collaboration between different actors, stakeholders, state institutions, social partners and civil society in Albania.

I. Government Institutions

Firstly, the government needs to change its vision that trade unions are insignificant and that they can be easily by-passed. The government should thus promote and support the development of trade unions by delegating authorities on matters affecting directly or indirectly the workers' interests and by accepting trade unions as partners. In addition, it has to play an active role in protecting trade unions from employer organisations' abuses.

Secondly, the government should not pass any legislation affecting workers' rights without firstly consulting the National Labour Council. In addition, the government should not amend or formulate law without firstly having discussed the draft form of the law with all the groups of interested especially with trade unions as legal representative of employee organizations in Albania. This recommendation is as a result of huge deficits of the Law on Commercial Companies and Trade, especially articles 19, 20, 21 which are related with the function and responsibility of employer council. The draft law on Commercial Companies and Trade was never discussed in the National Labour Council which is the main structure of national social dialogue in Albania.

Thirdly, it is recommended to the state to enhance the cooperation between institutes acting in the field of safety and health at work in order to ensure a system for exchange of information.

At the end, all the state institutions should cooperate with both the unions and distribute for consulting the final draft laws before sending them to adopt in the parliament.

II. Trade Unions

At the same time, unions should develop specific strategies which aim to increase their participation in the society. To demonstrate their relevance to the public, they should go beyond the core functions of collective bargaining by dealing with other broader developments.

To improve the image and public opinion trade unions could try to regularly organise, every three months, a "jour fixe" with both the KSSH and BSPSH to show to the media its value added by dealing with issues interesting to the broader public including female rights. In addition, it is recommended to organise more awareness raising activities.

More adequate strategies should be formulated in cooperation with other actors such as media, civil society, research institutes and universities. For instance, a concrete strategy to attract powerful media could be done in close cooperation with the civil society, interest groups, employers' organisations and state institutions. The cooperation could also help increase capacities of trade unions.

To enhance the role of women in the society (in terms of their economic independence, decision making, participation) it would be desirable if trade unions and non-governmental organisations focusing on women's rights could cooperate more.

III. Gender pay gap

Particularly the transition has negatively influenced the economic status of women and limited their opportunities to find jobs. This weakened position vis-a vis employers has meant that women are not ready to raise any objections or to claim better working conditions, extension of social protection and wage increases. However, Albania does not have statistical data in order to calculate the gender pay gap. This has decreased the possibility to formulate adequate strategies and policies to improve women conditions in the Albanian labour market. As a result, it is very important that the Albanian government should support the collection of gender based disaggregated data by age and sex in order to calculate the gender pay gap and to capture the gender dimensions of Albanian labour market. For this end, it is required the formation of a database by the National Institute of Statistics (INSTAT) in order to identify the factors producing this gap and to formulate better policies for preventing this kind of discrimination in the labour market. Moreover, the government should improve the information system in order to disseminate the official statistics, on regular basis, as an important instrument to increase the Labour market Performance.

The international actors can provide a crucial assistant to improve the decent work situation in Albania.

The European Union

The future Integration of Albania in the European Union will not be achieved without the compliance with social and economic standards of the EU countries. To achieve these standards and to fulfill the decent work's objectives in Albania, EU actors have to concentrate more attention on formulating policies that aim at sustainable economic development of the country.

By implementing the Decent Work Balkan Network project in Albania for the first time experience are shared as well as expertise between trade unions and civil society such as NGOs and think tank about the sector. The Union could promote more socio-economic partnerships through supporting socio-economic research, reporting, cooperation between NGOs and trade union, promote participation in the social dialogue.

In addition, the EU civil society instrument should promote more social observatories of NGOs, think tanks and social partners in order to monitor the application of international policies in Albania.

In the Albanian case, a genuine constructive dialogue at the national level should be supported further as the only mean to bring progress in fulfillment of the decent work agenda.

Further, the union should provide more technical financial assistances in supporting the decent work agenda, such as assisting the raise of inspection capacity.

In addition, the union could assist in the formation of Social Economic Council in accordance with the respective experience in the member states.

The European Union should promote and support the creation of the Labour Court and special arbitration tribunals.